IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 18860 of 2007(T)

PETITIONER:

K.R. RAMAN, AGED 62 YEARS,
S/O. RAMAN, KALLARACKAL HOUSE, MANJAPRA P.O.,
ERNAKULAM DISTRICT.

BY ADV. SRI.A.F.SEBASTIAN

RESPONDENTS:

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1. KERALA STATE TRANSPORT CORPORATION,
REP. BY MANAGING DIRECTOR, TRANSPORT BHAVAN,
THIRUVANANTHAPURAM.

2. THE ASSISTANT TRANSPORT OFFICER,
K.S.R.T.C., ANKAMALY UNIT, ANKAMALY P.O.,
ERNAKULAM DISTRICT.

3. THE K.S.R.T.C. STAFF CO-OP.SOCIETY(E-158
REP. BY SECRETARY, ALUVA P.O., ERNAKULAM DISTRICT.

R1 & R2 BY ADV. SHRI JOHNSON P. JOHN, SC, KSRTC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 18860 OF 2007

Dated this the 3rd August, 2007

JUDGMENT

Prayers in the Writ Petition are as follows:

> *"1. Direct the 1st & 2nd respondents to pay the penal interest in the loan account of the petitioner charged by the 3rd respondent due to the delay committed by the 1st & 2nd respondents to send the money recovered from the salary of the petitioner to the 3rd respondent.*
>
> *2. Direct the 3rd respondent to allow the petitioner to withdraw the share amount held by him in the 3rd respondent Society with immediate effect."*

2. As far as the second prayer is concerned, the prayer is sought against a Co-operative Society to withdraw the share amount. I do not think that the petitioner can be permitted to seek such a relief under Article 226 of the Constitution of India. Petitioner relies on Ext.P2. It is open to the petitioner to

approach the appropriate Forum. As far as the first prayer is concerned, the prayer is to pay penal interest for the delay committed by respondents 1 & 2 in sending the money recovered from the salary of the petitioner to the third respondent.

3. Petitioner availed a loan from the third respondent. The loan was to be repaid by deducting the amount every month from the petitioner's salary. There is delay on the part of the respondent Corporation in remitting the amount after deducting the amount from the salary of the petitioner. This is the case of the petitioner. Consequently, the third respondent has raised a demand for penal interest. This is an amount, according to petitioner, which is to be paid by the Corporation. What is sought, is a mandamus. A mandamus lies to enforce a public duty. There is no provision under which the Corporation can be directed to pay a particular sum at a particular rate of interest as penal interest. In such circumstances, I do not think that the Writ Petition is entertainable under Article 226. The Writ

Petition is disposed of without prejudice to the right of the petitioner to approach any other Forum. I follow the Judgment in W.P.(C). No.33693/04.

K. M. JOSEPH, JUDGE

kbk.